

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CAROL ANN FEKEN-CRISS,

3:11-CV- 00740 RE

Plaintiff,

OPINION AND ORDER

v.

CAROLYN W. COLVIN,
Acting Commissioner of Social Security,

Defendant.

REDDEN, Judge:

Plaintiff's counsel seeks attorney fees of \$19,227.00 pursuant to 42 U.S.C. § 406(b) (#
29). The government does not contest the motion but questions the amount.

Discussion

Attorney fees may be paid from past-due benefits awarded to a successful Social Security claimant. 42 U.S.C. § 406(b); *Gisbrecht v. Barnhart*, 535 U.S. 789, 795 (2002). Past-due

benefits are the total amount of benefits payable under Title II of the Social Security Act to all beneficiaries that have accumulated because of a favorable administrative or judicial determination or decision, up to but not including the month the determination or decision is made. 20 C.F.R. § 404.1703 (2012). An attorney may receive up to 25 percent of past-due benefits. The District Court determines the reasonableness of an attorney fee request under § 406(b) as “an independent check” to assure that contingency fee agreements between Social Security claimants and their attorneys will “yield reasonable results in particular cases.” *Gisbrecht*, 535 U.S. at 807. The Commissioner has no direct financial stake in the 406(b) question; instead, she “plays a part in the fee determination resembling that of a trustee for the claimants.” *Gisbrecht*, 535 U.S. at 798 n.6.

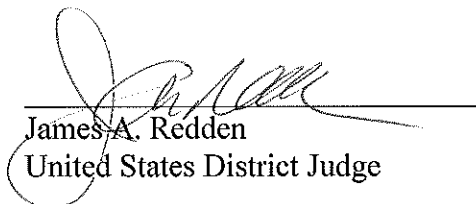
Plaintiff’s attorney seeks fees of \$19,227.00. The Commissioner points out that she has recalculated plaintiff’s benefits and the amount withheld for attorneys’ fees. The Commissioner rightly calculates that 25 percent of plaintiff’s past-due benefits is \$18,719.50.

Conclusion

Plaintiff’s motion for attorneys’ fees (# 29) is granted in the amount of \$18,719.50.

IT IS SO ORDERED.

Dated this 12 day of March, 2013.


James A. Redden
United States District Judge